



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Research Analysis and Maintenance, Inc.

File: B-236575

Date: December 12, 1989

DIGEST

Cancellation of a request for proposals after receipt and evaluation of initial proposals was proper where the agency reasonably determined that alternatives were available to better satisfy its requirements, and determined to reevaluate its needs in order to broaden the stated requirements and reissue the solicitation on a more competitive basis. Agency may properly cancel a solicitation regardless of when the information justifying the cancellation arises.

DECISION

Research Analysis and Maintenance, Inc. (RAM), protests the Department of the Army's cancellation of request for proposals (RFP) No. DAAD07-88-R-0039, for upgrade to its Electro-Optical Vulnerability Assessment Code (EOVAC).^{1/}

We deny the protest.

The RFP was issued on January 18, 1989, as a total small business set-aside. Two offers were received by the April 19 closing date for receipt of proposals. While the proposals were being evaluated, the contracting officer was notified by the using activity that there was another computer model, ALWSIM III, already owned by the government, which might better provide methods of assessing electro-optical systems than the EOVAC upgrade which was being solicited. Consequently, the contracting officer decided that it was in the best interest of the government to cancel the solicitation, and did so by letter to the offerors on

^{1/} The EOVAC provides a computer model to aid in accurately assessing the susceptibility/vulnerability of optical systems on the modern battlefield. The model consists of a battlefield engagement code which simulates in a computer a war game environment of American and Soviet armed forces.

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July 17. RAM requested and received a debriefing on July 27 and subsequently protested to our Office.

RAM alleges that the cancellation was improper because ALWSIM III is not a viable alternative to EOvac since it fails to meet several of the critical parameters set forth in the solicitation. The protester also alleges that the initial underlying cause of the cancellation was to make a sole-source award to Sparta, Inc., a large business concern which developed ALWSIM III. RAM requests either that the solicitation cancellation be rescinded and the evaluation be reopened, or that it be reimbursed for its proposal preparation costs.

In a negotiated procurement, the contracting officer has broad discretion in deciding whether to cancel a solicitation; he must only have a reasonable basis to do so, as opposed to the stricter requirement for cancellation of a solicitation after sealed bids have been opened that the cancellation be supported by a cogent and compelling reason. System-Analytics Group, B-233051, Jan. 23, 1989, 89-1 CPD ¶ 57. Here, the agency originally canceled the solicitation because it believed that the ALWSIM III code already owned by the government could better be used to satisfy agency needs. The agency subsequently determined that ALWSIM III could not be used to satisfy its needs without modification. While the contracting activity was assessing the suitability of ALWSIM III, it learned that there were also other codes available and owned by the government which could possibly be upgraded to better satisfy the activity's needs. As its final basis for cancellation, the agency determined that it should reevaluate its needs for an electro-optical assessment code to consider the possibility of drafting a solicitation which would encompass all of the possible alternative codes, not just the modification of EOvac which was called for under the canceled RFP, and thus would potentially enhance competition.

A procuring agency properly may cancel a negotiated procurement based on the potential for increased competition. Kitco, Inc.--Request for Recon., B-232727.3, Feb. 22, 1989, 89-1 CPD ¶ 323; Bell Indus., Inc., B-233029, Jan. 25, 1989, 89-1 CPD ¶ 81. The fact that the agency decided to cancel the solicitation 3 months after the closing date for receipt of proposals does not make the determination unreasonable, nor does the fact that the final basis for cancellation varied from the agency's initial reason. An agency properly may cancel a solicitation regardless of when the information warranting the cancellation arises, even if the original reasons justifying the cancellation are not reasonable, and the new reasons are not raised until after

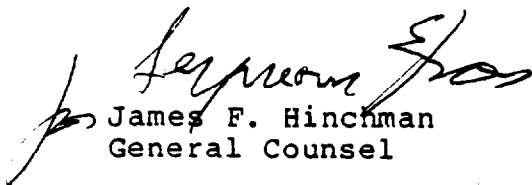
proposals are submitted, and the protester has incurred costs in pursuing the award. System-Analytics Group, B-233051, supra; Crow-Gottesman-Hill #8--Reconsideration, B-227809.2, Nov. 10, 1987, 87-2 CPD ¶ 471.

We find that the agency provided an adequate basis for cancellation. RAM asserts that it has evaluated the other computer models which the activity wishes to include under the new solicitation, and that they will not meet the government's needs as expressed in the canceled RFP. However, the determination of the government's needs and the best way of accommodating them are matters primarily within the contracting agency's discretion. Motorola, Inc., B-234615, May 9, 1989, 89-1 CPD ¶ 437.

RAM also hypothesizes that the agency may improperly disclose proprietary material submitted with RAM's proposal when it resolicits the requirement. The possible disclosure is purely speculative and, in any case, this allegation concerns anticipated agency action under a solicitation which has not yet been issued and, therefore, is premature and not for consideration. Access Innovations, Inc., B-232510, Oct. 4, 1988, 88-2 CPD ¶ 321.

Regarding RAM's request for reimbursement of its proposal preparation costs, there is no basis for allowing recovery of such costs where, as here, there is no indication that the agency acted improperly. System-Analytics Group, B-233051, supra.

The protest is denied.


James F. Hinchman
General Counsel